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6 **BEFORE THE**  
7 **CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. OT 2010-303

11 **SCOTT NELSON KEMP**  
12 **1511 Shaw Drive**  
13 **San Jose, CA 95118**  
14 **Occupational Therapist License No. OT 941**

**DEFAULT DECISION AND ORDER**

15 Respondent. [Gov. Code, §11520]

16 **FINDINGS OF FACT**

17 1. On or about April 26, 2011, Complainant Heather Martin, in her official capacity as  
18 the Executive Officer of the California Board of Occupational Therapy, Department of Consumer  
19 Affairs, filed Accusation No. OT 2010-303 against Scott Nelson Kemp (Respondent) before the  
20 California Board of Occupational Therapy. (Accusation attached as Exhibit A.)

21 2. On or about July 3, 2002, the California Board of Occupational Therapy (Board)  
22 issued Occupational Therapist License No. OT 941 to Respondent. The Occupational Therapist  
23 License was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on October 31, 2011, unless renewed.

25 3. On or about April 26, 2011, Respondent was served by Certified and First Class Mail  
26 copies of the Accusation No. OT 2010-303, Statement to Respondent, Notice of Defense, Request  
27 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
28 11507.7) at Respondent's address of record which, pursuant to title 16, section 4102, California  
Code of Regulations is and was required to be kept updated. That address was and is:

1511 Shaw Drive  
San Jose, CA 95118.

1           4.     Service of the Accusation was effective as a matter of law under the provisions of  
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
3 124.

4           5.     Government Code section 11506 states, in pertinent part:

5                 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
6 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
7 of the accusation not expressly admitted. Failure to file a notice of defense shall  
8 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
9 may nevertheless grant a hearing.

10          6.     Respondent failed to file a Notice of Defense within 15 days after service upon him  
11 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. OT  
12 2010-303.

13          7.     California Government Code section 11520 states, in pertinent part:

14                 (a) If the respondent either fails to file a notice of defense or to appear at the  
15 hearing, the agency may take action based upon the respondent's express admissions  
16 or upon other evidence and affidavits may be used as evidence without any notice to  
17 respondent.

18          8.     Pursuant to its authority under Government Code section 11520, the Board finds  
19 Respondent is in default. The Board will take action without further hearing and, based on the  
20 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
21 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
22 file at the Board's offices regarding the allegations contained in Accusation No. OT 2010-303,  
23 finds that the charges and allegations in Accusation No. OT 2010-303, are separately and  
24 severally, found to be true and correct by clear and convincing evidence.

25          9.     Taking official notice of its own internal records, it is hereby determined by the  
26 Board that the reasonable costs for Investigation and Enforcement is \$907.50 as of June 3, 2011.

#### 27                                 DETERMINATION OF ISSUES

28          1.     Based on the foregoing findings of fact, Respondent Scott Nelson Kemp has  
subjected his Occupational Therapist License No. OT 941 to discipline.

          2.     The agency has jurisdiction to adjudicate this case by default.

1           3.     The California Board of Occupational Therapy is authorized to revoke Respondent's  
2 Occupational Therapist License based upon the following violations alleged in the Accusation  
3 which are supported by the evidence contained in the Default Decision Evidence Packet in this  
4 case:

5           a.     Unprofessional Conduct pursuant to section 2570.28(a) of the California Business &  
6 Professions Code ("Code").

7           b.     Suspension of Licensure in Another State pursuant to sections 141 and 2570.28(a)(5)  
8 of the Code and Title 16, section 4100(i), California Code of Regulations.

9           c.     Commission of a Dishonest Act pursuant to section 2570.28 of the Code and Title 16,  
10 section 4100(i), California Code of Regulations.

11           d.     Obtaining or Possessing a Controlled Substance or Dangerous Drug pursuant to  
12 section 2570.29(a) of the Code.

13           e.     Use of a Controlled Substance pursuant to section 2570.29(b) of the Code.  
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1  
2 **ORDER**

3 IT IS ORDERED that Occupational Therapist License No. OT 941, heretofore issued to  
4 Respondent Scott Nelson Kemp, is revoked.

5 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
6 written motion requesting that the Decision be vacated and stating the grounds relied on within  
7 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
8 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

9 This Decision shall become effective on July 6, 2011.

10 It is so ORDERED June 21, 2011

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12   
13 FOR THE CALIFORNIA BOARD OF  
14 OCCUPATIONAL THERAPY  
15 DEPARTMENT OF CONSUMER AFFAIRS

16  
17 20464463.DOC  
18 DOJ Matter ID:SF2011200397

19 Attachment:  
20 Exhibit A: Accusation  
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